

76-2456/2

OLC 76-1905
8 July 1976

12 JUL 1976

Executive Registry

76-2456/3

STAT

MEMORANDUM FOR: Director of Central Intelligence

FROM:

Acting Legislative Counsel

SUBJECT:

Executive Branch Initiatives and Actions
under S. Res. 400

REFERENCE:

Memo to you from Jack Marsh
dtd 4 Jun 76; Same Subject

1. On 4 June Jack Marsh wrote to you and on 7 June we provided you backup papers listing the topics raised by S. Res. 400 which need Executive Branch tending to. This memorandum summarizes some of the more pressing requirements.

2. Reporting Responsibilities

a. Fully & Currently Informed -- Mechanisms and guidelines must be established for keeping the Committee fully and currently informed on intelligence activities (including significant anticipated activities). Comment: This is essentially an Agency and Intelligence Community problem. Broader issues involving executive privilege, etc., may require participation of the Department of Justice or others.

b. Requests -- Specific guidelines should be developed concerning:

1) The manner by which the Committee is furnished information or documents it requests;

2) What may or may not be furnished without unduly impinging upon Executive Branch processes, and

I believe we should take the offense with SSC on Intel - we should now

like 2 b 1) - 1

get them to sign to our inquiries

not always vice versa - let's you (OLC) prepare a committee to us for reviewing issues on - B-9

Oct
Comments
from
as
copy
to

3) The handling of information of unusual sensitivity affecting sources and methods.
Comment: This topic overlaps with (a) above.
The rules constituted via the ICG mechanism for the Church Committee investigation would be a good starting point.

c. Violations -- Specific guidelines must be developed concerning the reporting of violations of constitutional law, rights, executive orders, Presidential directives or Agency rules and regulations. Comment: A task force of the legal representatives of the Intelligence Community should be seized with this task. For example, the reporting of every violation may unacceptably involve the Committee day to day management and might conflict with reporting responsibilities within the Executive Branch and constitute an impediment to investigation by appropriate agencies such as the Department of Justice.

d. Covert Action -- There is a reasonable basis for terminating reporting to the Senate Armed Services Committee under the Hughes/Ryan amendment (Section 662 of the Foreign Assistance Act). This would reduce the numbers of committees exposed to this sensitive information but is hardly the remedy for the leakage problem on the Hill. The alternatives are:

- 1) Let reporting cease by atrophy;
- 2) Permit the matter to be resolved between Chairmen Inouye and Stennis;
- 3) Get agreement from Chairman Stennis that we no longer need report to him.

3. Staff Clearances -- The Committee is supposed to consult with the DCI concerning these clearances. Consideration should be given for polygraphs for the staff. An understanding should be reached on the security standards being used for clearances. Comment: Security experts such as [] for the Community and Robert Gambino could usefully sound out the Committee security officer on this score.

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4. Disclosure -- The Executive Branch must carefully consider its options in light of the Senate's assertion of its authority to unilaterally declassify Executive Branch information. One option, asserting constitutional objections to this provision, would be to refuse to provide the Committee information unless it agreed in advance not to disclose it. A second option would be to try to win the Committee's agreement to narrow the breadth of this provision. A third option would be merely to attempt to build a spirit of cooperation which would enable us to avoid disclosure disputes. Comment: The views of PFIAB and Justice would be a helpful preliminary.

5. President's Representative -- Section 9 provides that the Select Committee may permit a representative of the President to attend any closed Committee meetings. Comment: A determination could be made between yourself, [] General Scowcroft, and PFIAB whether it would be useful to the Executive Branch to have a representative in attendance, in which case Senators Inouye and Baker should be urged to permit such a representative. If decided in the affirmative, a decision must also be made regarding who should serve in this liaison position.

6. Legislation -- The Church Committee's final report contained 87 recommendations, over half of which were recommended as new laws. Chairman Inouye has already announced that the new Committee will proceed to consider changes in agencies' charters. The Executive Branch should be prepared with its responses to the Church Committee recommendations, as these will no doubt be the starting point for the new Committee's work. Comment: Things already in train are:

- a. We have taken the first cut at staffing out positions on these recommendations;

b. We have established a task force with Tony Lapham's office to draft legislation;

c. We intend to obtain inputs from our colleagues in the legislation business throughout the Intelligence Community.

Once we have the draft in hand, final coordination could be effected via the CFI mechanism and it may be helpful to involve PFIAB also.



Acting Legislative Counsel

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cc:
DDCI
D/DCI/IC
OGC
DDI
DDS&T
DDA
DDO
IG

CENTRAL INTELLIGENCE AGENCY

OFFICE OF THE DIRECTOR

Executive Registry

76-2456/1

5 June 76

Sat. 6-5

[Redacted]

The attached from Marsh today.

What exactly is he referring to??

GB

I need this by Monday noon....

GB

(EXECUTIVE REGISTRY FILE)

W. H. House

June 4, 1976

MEMORANDUM FOR:

GEORGE BUSH

FROM:

JACK MARSH

In the recent ICG meeting, there was a discussion of the new Senate Select Committee pursuant to S. R. 400.

There was a consensus of the group that in a number of areas, in establishing Administration and Committee-wide procedures, the lead should be taken by the CFI with a substantial role undertaken by the DCI.

This relates to matters that heretofore were discussed and negotiated with Congressional Committees by the ICG. However, we feel these can be better handled and more properly handled by members of the CFI.

Perhaps we can meet the first of next week to explore more fully these areas, and I will be glad to help in any way I can.

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EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
	1 DCI				
	2 DDCI				
	3 D/DCI/IC				
	4 S/MC				
	5 DDS&T				
	6 DDI				
	7 DDA				
	8 DDO				
	9 D/DCI/NIO		X		
	10 GC				
	11 LC				
	12 IG				
	13 Compt				
	14 D/Pers				
	15 D/S				
	16 DTR				
	17 Asst/DCI				
	18 AO/DCI				
	19 C/IPS				
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	22				
SUSPENSE		Date			

Remarks:

Per your request, attached is item 9 from the 9 July DDJ.

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